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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 586,202	06.02.2000	David E. Wenstrup	5021	6108

25280 7590 08.13.2003

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EXAMINER

KUMAR, PREETI

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 08/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/586,202

Applicant(s)

WENSTRUP, DAVID E.

Examiner

Preeti Kumar

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-9,11-13,15 and 16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-5, 7-9, 11-13, 15-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other \_\_\_\_\_

## **DETAILED ACTION**

### ***Final Rejection***

1. Claims 2, 6, 10, and 14 are cancelled. Claims 1,3-5, 7-9, 11-13, 15-16 are pending.
2. The rejection of claims 1, 3, 5, 8, 9, 11, 13, and 16 under 35 U.S.C. 103(a) as being unpatentable over Brodmann et al. (US 4,045,601) is maintained for the reasons of record and further explained below.
3. The rejection of claims 4, 7, 12, and 15 under 35 U.S.C. 103(a) as being unpatentable over Brodmann et al. as applied to claims 1, 3, 5, 8, 9, 11, 13, and 16, and further in view of Freeman (US 4,902,787) is maintained for the reasons of record and further explained below.

### ***Response to Arguments***

4. Applicant's arguments filed in paper #14 on June 4, 2003, have been fully considered but they are not persuasive.

Applicants urge that Brodmann et al. either alone or in combination with Freeman do not teach or suggest the use of an internally dyed polymeric material wherein the polymeric material is dyed by introducing a colorant into a melt of the polymeric material. However, examiner's review of the specification finds no support or basis for the limitation of "a melt of the polymeric material". Furthermore, contrary to applicant's arguments, Brodmann et al. teach a multi-step process for treatment of woven fiber, first, by impregnation with a liquid pre-finishing composition and then by impregnation with a liquid finishing composition. See col. 2, ln.1-8. and col.4, ln.5-15, Brodmann et al.

also teach that the liquid pre-finishing composition comprises pigment dye. Also, the liquid finishing composition has as its essential ingredients a soluble synthetic resin, dye, and chlorinated hydrocarbon solvent. Please see col.2, ln.15.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a method of dyeing synthetic material comprising the steps of internally dyeing a polymeric material with a colorant, forming a structure comprising the base color shade of the colorant, assembling a fabric, and externally dyeing the fabric to form a final color shade as recited by the instant claims, with a reasonable expectation of success, because the teachings of Brodmann et al. suggest a multi-step process for treatment of woven fiber, first, by impregnation with a liquid pre-finishing composition comprising a dye and thus, forming a base color shade and then by impregnation with a liquid finishing composition also comprising a dye and thus, forming a final color shade for use in a process for dyeing glass filaments which are combined into strands which strands are twisted into yarn and the yarn woven into fabric. Furthermore, merely reversing or changing the order of the steps in a process does not impart patentability when no unexpected result is obtained. Ex Parte Rubin (POBA) 128 USPQ 440 Cohn V. Comr. Pats. (DCDC 1966) 251 FSUPP 378, 148 USPQ 486 ; 29 USPQ 493 ; 38 USPQ 181.

### ***Conclusion***

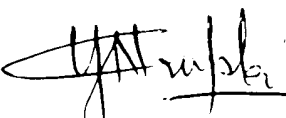
5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Preeti Kumar whose telephone number is 703-305-0178. The examiner can normally be reached on M-F 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra N. Gupta can be reached on 703-308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-872-9309.

  
YOGENDRA N. GUPTA  
SUPERVISORY EXAMINER  
TECHNOLOGY CENTER 1700  
Preeti Kumar  
Examiner  
Art Unit 1751

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August 7, 2003